

 KeyCite Yellow Flag - Negative Treatment
Proposed Legislation

West's Vermont Statutes Annotated
Title Twenty-One. Labor
Chapter 5. Employment Practices
Subchapter 6. Fair Employment Practices

21 V.S.A. § 495i

§ 495i. Employment based on credit information; prohibitions

Currentness

(a) As used in this section:

(1) “Confidential financial information” means sensitive financial information of commercial value that a customer or client of the employer gives explicit authorization for the employer to obtain, process, and store and that the employer entrusts only to managers or employees as a necessary function of their job duties.

(2) “Credit history” means information obtained from a third party, whether or not contained in a credit report, that reflects or pertains to an individual's prior or current:

(A) borrowing or repaying behavior, including the accumulation, payment, or discharge of financial obligations; or

(B) financial condition or ability to meet financial obligations, including debts owed, payment history, savings or checking account balances, or savings or checking account numbers.

(3) “Credit report” has the same meaning as in [9 V.S.A. § 2480a](#).

(b) An employer shall not:

(1) Fail or refuse to hire or recruit; discharge; or otherwise **discriminate** against an individual with respect to employment, compensation, or a term, condition, or privilege of employment because of the individual's **credit** report or **credit** history.

(2) Inquire about an applicant or employee's credit report or credit history.

(c)(1) An employer is exempt from the provisions of subsection (b) of this section if one or more of the following conditions are met:

(A) The information is required by State or federal law or regulation.

(B) The position of employment involves access to confidential financial information.

(C) The employer is a financial institution as defined in [8 V.S.A. § 11101\(32\)](#) or a credit union as defined in [8 V.S.A. § 30101\(5\)](#).

(D) The position of employment is that of a law enforcement officer as defined in [20 V.S.A. § 2358](#), emergency medical personnel as defined in [24 V.S.A. § 2651\(6\)](#), or a firefighter as defined in [20 V.S.A. § 3151\(3\)](#).

(E) The position of employment requires a financial fiduciary responsibility to the employer or a client of the employer, including the authority to issue payments, collect debts, transfer money, or enter into contracts.

(F) The employer can demonstrate that the information is a valid and reliable predictor of employee performance in the specific position of employment.

(G) The position of employment involves access to an employer's payroll information.

(2) An employer that is exempt from the provisions of subsection (b) of this section may not use an employee's or applicant's credit report or history as the sole factor in decisions regarding employment, compensation, or a term, condition, or privilege of employment.

(d) If an employer seeks to obtain or act upon an employee's or applicant's credit report or credit history pursuant to subsection (c) of this section that contains information about the employee's or applicant's credit score, credit account balances, payment history, savings or checking account balances, or savings or checking account numbers, the employer shall:

(1) Obtain the employee's or applicant's written consent each time the employer seeks to obtain the employee's or applicant's credit report.

(2) Disclose in writing to the employee or applicant the employer's reasons for accessing the credit report, and if an adverse employment action is taken based upon the credit report, disclose the reasons for the action in writing. The employee or applicant has the right to contest the accuracy of the credit report or credit history.

(3) Ensure that none of the costs associated with obtaining an employee's or an applicant's credit report or credit history are passed on to the employee or applicant.

(4) Ensure that the information in the employee's or applicant's credit report or credit history is kept confidential and, if the employment is terminated or the applicant is not hired by the employer, provide the employee or applicant with the credit report or have the credit report destroyed in a secure manner which ensures the confidentiality of the information in the report.

(e) An employer shall not discharge or in any other manner discriminate against an employee or applicant who has filed a complaint of unlawful employment practices in violation of this section or who has cooperated with the Attorney General or a State's Attorney in an investigation of such practices or who is about to lodge a complaint or cooperate in an investigation or because the employer believes that the employee or applicant may lodge a complaint or cooperate in an investigation.

(f) Notwithstanding subsection (c) of this section, an employer shall not seek or act upon **credit** reports or **credit** histories in a manner that results in adverse employment **discrimination** prohibited by federal or State law, including [section 495](#) of this title and Title VII of the Civil Rights Act of 1964.

(g) This section shall apply only to employers, employees, and applicants for employment and only to employment-related decisions based on a person's credit history or credit report. It shall not affect the rights of any person, including financial lenders or investors, to obtain credit reports pursuant to other law.

Credits

[2011, Adj. Sess., No. 154](#), § 2, eff. July 1, 2012.

21 V.S.A. § 495i, VT ST T. 21 § 495i

The statutes are current through Acts of the Regular Session of the 2019-2020 Vermont General Assembly (2019). Statutes are subject to change as determined by the Vermont Legislative Council.

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